

Agenda

Item #3

RECEIVED

JUN 16 2008

MAINE ETHICS COMMISSION

To: Maine State Ethics Commission
Re: An Appeal on our Fine

Members of the Ethics Commission,

Please consider this a formal request for an appeal on our recent \$600 fine for failure to file a pre-primary report.

For the record, Maine Citizens for Patients Rights fully acknowledges our failure to file the pre-primary report due May 30th, 2008. Please note that immediately after our notification of our failure to file and a conversation with Jeremy Brown we did file the necessary report.

Please note also that since our inception back in 2006 all of our reports have been filed on time and with full disclosure. We fully appreciate the role that campaign finance and ethics laws play in keeping Political Action Committees accountable and our intention has always been and will continue to be, full transparency in all our work.

Our failure to file was based on a number of factors converging.


First, was our incorrect interpretation of the filing laws, where we thought that since we were not involved in the state primary in any way, we were not required to file a pre-primary report. We have reviewed the laws to ensure that we do not make this mistake again.

Second was the failure of our treasurer to stay on top of this filing. The usual email that arrives from the State Ethics Commission staff did get to her, but did not get relayed to me. To correct this we have provided new contact information to Jeremy Brown and have replaced our treasurer with a new person who has committed to staying on top of these emails and deadlines.

We hope that the Maine State Ethics Commission will take into consideration our record previous to this failure to file, to note our self-correction, and either reduce or repeal the \$600 fine.

I will appear in person at your June meeting to answer any questions the commission may have.

Sincerely,



Jonathan Leavitt
Maine Citizens for Patients Rights



STATE OF MAINE
COMMISSION ON GOVERNMENTAL ETHICS
AND ELECTION PRACTICES
135 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0135

June 6, 2008

Ms. Faith Benedetti
Treasurer
Maine Citizens for Patients' Rights
777 Sturtevant Hill Rd.
Winthrop, ME 04364

Re: Campaign Finance Report Late Filing

Dear Ms. Benedetti:

Our records show that the 11-Day Pre Primary campaign finance report for the above mentioned PAC was filed on June 5, 2008. This report was due no later than 11:59 P.M. on May 30, 2008. Penalties for late PAC reports are based on the amount of financial activity during the filing period, the number of calendar days a report is filed late, and the PAC's filing history (21-A M.R.S.A. § 1062-A). A penalty of no more than \$100 may also be assessed for late reports covering periods in which the PAC had no financial activity (21-A M.R.S.A. § 1004-A).

Pursuant to the statutory formula prescribed in 21-A M.R.S.A. § 1062-A, the Commission has assessed a preliminary penalty of **\$600** for the late filing of this report. Please see the enclosed penalty matrix for more information on how this penalty was calculated.

If you believe you have a valid reason for filing late, you may request that the Commission make a final penalty determination. Any request for a Commission determination must be made within 10 calendar days of receiving this notice, beginning the day you sign for receipt. Upon receipt of your request for a Commission determination, we will schedule you to appear before the Commission at the next regularly scheduled meeting. You may appear before the Commission personally, designate a representative to appear on your behalf, or submit a written statement in which you provide an explanation of the mitigating circumstances you wish the Commission to take into consideration. The Commission will notify you of the disposition of your case shortly after its determination.

Please direct any questions you may have about this matter to me at 287-6221.

Sincerely,

Jeremy J. Brown
PAC, Party & Lobbyist Registrar

Enclosure (2)

**BASIS FOR PENALTIES
21-A M.R.S.A. Section 1062-A**

Committee Name:	Maine Citizens for Patients' Rights	Report Title:	11-Day Pre-Primary
		Due Date:	May 30, 2008
Previous Violation(s):	0	Filed Date:	June 5, 2008

The penalty for late filing of a required report is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days the report is filed late, as follows:

For the first violation, 1%
For the second violation, 3%
For the third and each subsequent violation, 5%

A penalty begins to accrue at 11:59 p.m. on the day the report is due.

Penalty Example:		Your Penalty is calculated as follows:	
The treasurer files the candidate's report two (2) days late. The candidate has not had any previous late violations this biennium. The candidate reports a total of \$2,500 in contributions and \$1,500 in expenditures for the filing period. The penalty is		Contributions / Expenditures:	<u>\$10,000.00</u>
\$2,500	Greater amount of the total contributions received or expenditures made during the filing period	x	<u>1%</u>
X .01	Percent prescribed for first violation		<u>\$100.00</u>
\$25.00	One percent of total contributions	x	<u>6</u>
X 2	Number of calendar days late		<u>\$600.00</u>
\$50.00	Total Penalty	Total penalty accrued:	<u>\$600.00</u>

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each even-numbered year. Waiver of a penalty does not nullify the finding of a violation.

A required report that is sent by certified or registered United States mail and postmarked at least 2 days before the deadline is not subject to penalty.

MAXIMUM PENALTIES

21-A M.R.S.A. Section 1062-A(4)

\$10,000 for 11-Day Pre Election reports, 42-Day Post-Election reports, and 24-Hour reports

\$5,000 for Quarterly reports

21-A §1062-A. Failure to file on time

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21-A §1062-A. Failure to file on time

1. Registration. A political action committee required to register under section 1053 that fails to do so in accordance with section 1053 or that fails to provide the information required by the commission for registration may be assessed a forfeiture of \$250.

[1995, c. 483, §21 (NEW) .]

2. Campaign finance reports. A campaign finance report is not timely filed unless a properly signed or electronically submitted copy of the report, substantially conforming to the disclosure requirements of this subchapter, is received by the commission by 11:59 p.m. on the date it is due. Except as provided in subsection 6, the commission shall determine whether a required report satisfies the requirements for timely filing. The commission may waive a penalty if it is disproportionate to the level of experience of the person filing the report or to the harm suffered by the public from the late disclosure. The commission may waive the penalty in whole or in part if the commission determines the failure to file a timely report was due to mitigating circumstances. For purposes of this section, "mitigating circumstances" means:

A. A valid emergency of the committee treasurer determined by the commission, in the interest of the sound administration of justice, to warrant the waiver of the penalty in whole or in part; [1999, c. 729, §9 (AMD) .]

B. An error by the commission staff; or [1999, c. 729, §9 (AMD) .]

C. Other circumstances determined by the commission that warrant mitigation of the penalty, based upon relevant evidence presented that a bona fide effort was made to file the report in accordance with the statutory requirements, including, but not limited to, unexplained delays in postal service or interruptions in Internet service. [2007, c. 443, Pt. A, §38 (AMD) .]

[2007, c. 443, Pt. A, §38 (AMD) .]

3. Basis for penalties. The penalty for late filing of a report required under this subchapter is a percentage of the total contributions or expenditures for the filing period, whichever is greater, multiplied by the number of calendar days late, as follows:

A. For the first violation, 1%; [1995, c. 483, §21 (NEW) .]

B. For the 2nd violation, 3%; and [1995, c. 483, §21 (NEW) .]

C. For the 3rd and subsequent violations, 5%. [1995, c. 483, §21 (NEW) .]

Any penalty of less than \$10 is waived.

Violations accumulate on reports with filing deadlines in a 2-year period that begins on January 1st of each